

AE

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SALMAN ZAHOOR  
A 78 862 161

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY; SECRETARY MICHAEL  
CHERTOFF; UNITED STATES  
CITIZENSHIP AND IMMIGRATION  
SERVICES; RUTH DORCHOFF,  
DISTRICT DIRECTOR;  
PETER KEISLER, US ATTORNEY  
GENERAL AND THE UNITED STATES  
OF AMERICA. FEDERAL BUREAU OF  
INVESTIGATION, ROBERT MUELLER,  
DIRECTOR

Defendants.

Case No.

07CV6324

JUDGE HOLDERMAN  
MAG. JUDGE COX

Jury Demand

**FILED**  
NOV 08 2007  
NOV 08 2007  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**COMPLAINT FOR WRIT OF MANDAMUS**

NOW COME the Plaintiff, Salman Zahoor, by and through his attorneys, Khalaf, Abuzir & Mitchell, P.C., and complain as follows:

**STATEMENT OF ACTION**

1. This action is brought to compel action on Application for Lawful Permanent Resident Status ("I-485") and Petition for Alien Relative ("I-130") properly filed with the United States Citizenship and Immigration Services ("USCIS") in Chicago by the Plaintiff. To the Plaintiff detriment, Defendants have failed to adjudicate the applications.

### **PARTIES**

2. The Plaintiff Salman Zahoor filed a Petition for Alien Relative (Form I-130) and Application to Adjust Status to Lawful Permanent Resident (Form I-485) with the USCIS Chicago District Office.
3. Defendant MICHAEL CHERTOFF ("Chertoff"), the Secretary for the Department of Homeland Security ("DHS"), is being sued in his official capacity only. Chertoff is responsible for adjudication of I-130 applications pursuant to 8 U.S.C. § 1225.
4. Peter Keisler ("Keisler"), the Attorney General of the United States, is being sued in his official capacity only. Keisler is responsible for the adjudication of I-485 applications pursuant to 8 U.S.C. § 1225 .
5. Defendant Ruth Dorchoff ("Dorchoff"), the District Director of Chicago USCIS, is being sued in her official capacity only. Dorchoff is charged with supervisory authority over all of Chicago USCIS operations and USCIS agents and officers acting in their official capacity.
6. Robert Mueller ("Mueller"), is the Director of the Federal Bureau of Investigations, is being sued in his official capacity. Mueller is charged with supervising authority over FBI operations and FBI agents and officers acting in their official capacity.

### **JURISDICTION**

7. This Court has original jurisdiction to hear both civil actions arising under the laws of the United States and actions to compel an officer or employee of the United States or any agency thereof to perform a duty. 28 U.S.C. §1331; 28

U.S.C. §1361. This Court also has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§2201-2202.

8. This action is brought to compel the Defendants, an officer and an agency of the United States, to perform the duties arising under the laws of the United States.
9. This Court has jurisdiction to hear actions arising from claims that an agency or officer or employee of a government agency failed to act in its official capacity and the person to whom the duty was owed suffered a legal wrong. 5 U.S.C. §702.
10. This action invokes the Plaintiffs' right of due process under the Fifth Amendment of the United States Constitution, over which this Court retains jurisdiction.
11. This action is brought due to the repeated failure of the Defendants to perform their duty to adjudicate the Plaintiffs' I-130 and I-485 applications for adjustment of status within a reasonable amount of time. Failure to adjudicate said application has resulted in harm to the Plaintiffs.
12. Federal courts retain jurisdiction over adjudication matters when the USCIS refuses to adjudicate adjustment of status applications. Iddir v. INS, 166 F.Supp.2d 1250, 1260 (N.D. Ill. 2001).
13. The illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") does not divest this Court of jurisdiction because the Plaintiff is not seeking a review of a denial; he is seeking to have his adjustment application adjudicated, as part of the duties conferred upon the Defendants by Congress. *Id.* at 1256.

14. Venue lies in this Court pursuant to 28 U.S.C. §1391(e). This is an action against officers and agencies of the United States in their capacities, brought in the District where a Defendant resides and where a substantial part of the events or omissions giving rise to Plaintiffs' claim occurred.
15. Plaintiffs' Application for Alien Relative Petition and Lawful Permanent Resident Status was properly filed and, to Plaintiffs' knowledge, remains pending with the Chicago, USCIS District Director.

#### **EXHAUSTION OF REMEDIES**

16. Plaintiff has exhausted all administrative remedies. Plaintiff, through his attorney and on his own, has made numerous inquiries concerning the status of the I-130 and I-485 applications and Defendants have failed to properly respond.
17. Plaintiff has not received correspondence from the Defendants in regards to adjudication of their Forms I-130 and I-485 application.

#### **CAUSE OF ACTION**

18. Plaintiffs' filed their I-130 and I-485 applications on or about March 21, 2002.  
See Exhibit "A".
19. Plaintiffs were last interviewed on their applications by Defendants on February 7, 2006; however Plaintiffs have yet to receive a decision.
20. Approximately over sixty seven months (67) months have passed since Plaintiffs filed their applications and twenty (20) months since Plaintiffs interview and Plaintiffs have yet to receive a decision.

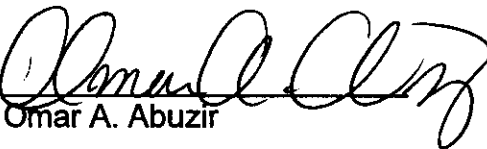
21. Plaintiffs properly submitted the documentation in support of their application and Defendants have not requested any additional evidence in support of their applications.
22. Defendants have had every opportunity to adjudicate Plaintiffs' applications. There has been no decision and no further indication there has been any attempt to adjudicate his application. Again, Defendants have had over 1 year and 8 months to make a decision on the applications.
23. Plaintiff has been greatly damaged by the failure of Defendants to act in accord with his duties under the law.
  - (a) Plaintiff has to expend money every year in order to renew Mr. Zahoor work authorization permission.
  - (b) The Plaintiff has been denied the opportunity to have a final resolution of his application. Specifically, whether Mr. Zahoor can remain lawfully present in the United States.
24. The Defendants' delay in processing of the applications has further deprived the Plaintiff of his right to due process under the law as provided by the Fifth Amendment of the United States Constitution.
25. The Defendants, in violation of the Administrative Procedure Act, 5 U.S.C. §701 *et seq.* are unlawfully withholding and unreasonably delaying action on Plaintiffs' applications and have subsequently failed to carry out the adjudicative functions delegated to them by law with regard to the Plaintiffs' case.

**PRAYER**

**Wherefore**, Plaintiffs request that this Honorable Court enter an order:

- (a) Requiring Defendants to adjudicate Plaintiffs' applications for relative immigrant visa petition (I-130) and adjustment of status application (I-485);
- (b) Awarding Plaintiff reasonable attorney's fees pursuant to 28 U.S.C. §2412 for failure of the Defendants to perform their duties within a reasonable amount of time; and
- (c) Granting such other relief at law and in equity as justice may so require.

Respectfully submitted,  
Salman Zahoor

By:   
Omar A. Abuzir

Omar A. Abuzir  
Khalaf, Abuzir & Mitchell, P.C.  
10003 S. Roberts Road  
Palos Hills, Illinois 60465  
Tel. (708)233-1122  
Fax. (708)233-1161

U.S. Department of Homeland Security  
10 West Jackson Boulevard  
Chicago, IL 60604



U.S. Citizenship  
and Immigration  
Services

Received: 01-07-05

\$ 750.00

SALMAN ZAHOR  
514 W. JEFFERSON BLVD., APT. H  
MISHAWAKA, IN 46545

Date: January 3, 2006  
File Number: 78862161

### Appointment Notice

You are scheduled for an interview regarding your I-485 Application to Adjust Status to that of a lawful permanent resident. Please appear with your petitioner on 2/7/2006 at 11:30:00 AM. Your local USCIS office is located at: 230 S. Dearborn Street, 2<sup>nd</sup> Floor, Chicago, Illinois.

**PLEASE READ THE INSTRUCTIONS BELOW:**

**IF YOU DO NOT SPEAK ENGLISH PLEASE BRING AN ADULT TRANSLATOR**  
**(FAMILY MEMBERS AND ATTORNEYS ARE NOT ACCEPTABLE TRANSLATORS)**

**YOU MUST BRING ORIGINALS AND COPIES OF THE FOLLOWING DOCUMENTS:**

1. MEDICAL EXAMINATION FORM I-693 IN A SEALED ENVELOPE
2. AFFIDAVIT OF SUPPORT FORM I-864 (WITH YOUR TAX RETURNS FOR THE LAST 3 YEARS, W-2's and current job letter).
3. CERTIFIED COURT DISPOSITIONS (for ALL arrests, no matter how long ago the arrest occurred)
4. 2 Color ADIT-Style photographs
5. Photo Identification for yourself and your petitioner
6. Your employment authorization card
7. English translations of any foreign documents (Use certified translators only)
8. Proof of legal entry into the United States, passport and/or proof of payment of I-485 Supplement A.
9. Birth certificates for beneficiary, petitioner and ALL children
10. Marriage certificates (If married previously, proof of termination of ALL previous marriages)
11. If applying based on marriage to a U.S. citizen or lawful permanent resident:
  - 11. ✓ Wedding or family photos
  - 12. ✓ Proof of joint residence (i.e., mortgages, leases, and utility bills)
  - 13. Proof of joint credit and joint purchases
  - 14. ✓ Bank statements and credit card statements
  - 15. ✓ Proof of medical, dental, and life insurance

Failure to appear for the scheduled interview will be deemed an abandonment of the application and will result in a denial of the application pursuant to 8 CFR 103.2(b)(13).

Sincerely,

Michael M. Comfort  
District Director

Examiner: 1

For Questions and Concerns Contact: Website: [www.uscis.gov](http://www.uscis.gov), Telephone: 1-800-375-5283, TTY: 312-385-1813



DEPARTMENT OF HOMELAND SECURITY  
BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES

10 West Jackson Blvd.  
Chicago, Illinois 60604

OCTOBER 17, 2005  
A# 78862161

SALMAN ZAHOOR  
514 APT H WEST JEFFERSON BLVD APT H  
MISHAWAKA, IN 46545

Dear Applicant,

For INS to continue processing your application, you must go to an INS Application Support Center to have your fingerprint taken. Below is the Center's address and hours of operation:

| ASC   | Hours of Operation                             | 7 day period beginning                     |
|---|--|--|
| Immigration and Naturalization Service<br>Application Support Center<br>7852 Interstate Plaza<br>Hammond, Indiana 46324 | Sun, Mon - Closed<br>Tue, Wed, Thurs, Fri, Sat | OCTOBER 25, 2005<br>8:00 a.m. to 3:30 p.m. |

If you cannot go to the INS Application Support Center during your scheduled seven day period, you may go on any Wednesday following your scheduled seven day period, as long as you come in **within 84 days** from the scheduled week. If you do not have them taken within that period, your application may be considered abandoned and denied pursuant to 8 CFR 103.2(b)(13).

When you go to have your fingerprints taken, you must bring: 1) THIS NOTICE; and 2) photo identification, such as your passport, valid driver's license, national ID, military ID, State-issued photo ID, or other INS issued photo ID. If you appear without this notice and proper photo identification, you will not be fingerprinted. This may cause a delay in the processing of your application.

Please take note that the staff at the Application Support Centers will not be able to answer any questions about the status of your application.

REASON: I-485 / YH

BIOMETRICS PROCESSING STAMP  
XCF  
BIOMETRICS QA REVIEW BY:

ON  
TENPRINTS QA REVIEW BY:  
157m ON OCT 25 2005



U.S. Department of Homeland Security  
10 West Jackson Boulevard  
Chicago, IL 60604



U.S. Citizenship  
and Immigration  
Services

SALMAN ZAHOR  
514 W. JEFFERSON BLVD., APT. H  
MISHAWAKA, IN 46545

Date: January 3, 2006  
File Number: 78862161

### Appointment Notice

You are scheduled for an interview regarding your I-485 Application to Adjust Status to that of a lawful permanent resident. Please appear with your petitioner on 2/7/2006 at 11:30:00 AM. Your local USCIS office is located at: 230 S. Dearborn Street, 2<sup>nd</sup> Floor, Chicago, Illinois.

**PLEASE READ THE INSTRUCTIONS BELOW:**

**IF YOU DO NOT SPEAK ENGLISH PLEASE BRING AN ADULT TRANSLATOR  
(FAMILY MEMBERS AND ATTORNEYS ARE NOT ACCEPTABLE TRANSLATORS)**

**YOU MUST BRING ORIGINALS AND COPIES OF THE FOLLOWING DOCUMENTS:**

- **MEDICAL EXAMINATION FORM I-693 IN A SEALED ENVELOPE**
- **AFFIDAVIT OF SUPPORT FORM I-864 (WITH YOUR TAX RETURNS FOR THE LAST 3 YEARS, W-2's and current job letter).**
- **CERTIFIED COURT DISPOSITIONS (for ALL arrests, no matter how long ago the arrest occurred)**
- **2 Color ADIT-Style photographs**
- **Photo Identification for yourself and your petitioner**
- **Your employment authorization card**
- **English translations of any foreign documents (Use certified translators only)**
- **Proof of legal entry into the United States, passport and/or proof of payment of I-485 Supplement A.**
- **Birth certificates for beneficiary, petitioner and ALL children**
- **Marriage certificates (If married previously, proof of termination of ALL previous marriages)**
- **If applying based on marriage to a U.S. citizen or lawful permanent resident:**
  - **Wedding or family photos**
  - **Proof of joint residence (i.e., mortgages, leases, and utility bills)**
  - **Proof of joint credit and joint purchases**
  - **Bank statements and credit card statements**
  - **Proof of medical, dental, and life insurance**

Failure to appear for the scheduled interview will be deemed an abandonment of the application and will result in a denial of the application pursuant to 8 CFR 103.2(b)(13).

Sincerely,

Michael M. Comfort  
District Director

Examiner: 1

**For Questions and Concerns Contact:** Website: [www.uscis.gov](http://www.uscis.gov), Telephone: 1-800-375-5283, TTY: 312-385-1813



**Immigration & Naturalization Service**  
**10 West Jackson Boulevard**  
**Chicago, Illinois 60604**

1 APR 23  
 CHICAGO, ILL.

03/26/02

APR 22 2002

Salman Zahoor  
 917 Michigan Ave  
 Mishawaka, IN 46544

RE: 78862161

03/21/02

\*\*000000\*\*

ZAHOR SALMAN #

DOB 10-7-71 #

I-485 W/O SUPP

255

F-258

50

I-765

I-130

130

SUBTTL

535

CHECK

55

CHECK

500

4 ITEMS

6376 001 001 9

THANK YOU

Dear Applicant,

We have received your application for lawful permanent residence in the United States. Our receipt date is 03/21/02. We currently have approximately 26 months from receipt date to interview.

You will receive a notice for your fingerprints, and subsequently a letter for interview approximately two months prior to your appointment date. The appointment letter will advise you of the date and time of interview.

**FURTHER:**

- A) If you applied as a family, all members of the family must be present at the interview.
- B) If you are a diversity lottery winner, and do not receive an appointment for prints and interview within one month after receipt of this letter, contact the office immediately, make a copy of this letter, and you are a DV case and have not received your appointment for interview. Your adjustment must be completed before September 30th of the filing year.
- C) If you are filing as a child, under 21 years of age, and will reach your 21st birthday before the backlog period is reached, please notify this office IMMEDIATELY, in order that the application be processed timely.

If you have filed for a work authorization card, you will receive an appointment letter for the initial interview within 90 days. If you choose to file for employment authorization at a later date, you must submit Form I-765. Request for work authorization by mail. Employment Authorization will not be issued on a walk-in basis. Please send the completed I-765 with proper fee to the following address:

**U.S. Immigration and Naturalization Service**  
**P.O. Box A3462, Chicago, Illinois 60690-3462**  
**Attn: EAD**

Since you have an application for adjustment pending and need to travel outside of the United States, you must file form I-131. Permission to travel is not an automatic grant. If at the time you file the application for residency, you were out of status or illegally in the United States for 6 months or longer, advance parole **WILL NOT BE GRANTED**. If the application is filed and you are denied, the filing fee is not refundable.

If you do not fall into either category B or C, please do not inquire about the status of your application prior to the backlog period mentioned. It will only further delay the processing time. Any ADDRESS CHANGES should be mailed with a copy of this letter to U.S. INS, P.O. Box A3462, Chicago, Illinois 60690-3462.

Sincerely,

Brian R. Perryman  
 District Director

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**SALMAN ZAHOOR**  
A 78 862 161

**Plaintiffs.**

**V.**

U.S. DEPARTMENT OF HOMELAND  
SECURITY; SECRETARY MICHAEL  
CHERTOFF; UNITED STATES  
CITIZENSHIP AND IMMIGRATION  
SERVICES; RUTH DORCHOFF,  
DISTRICT DIRECTOR;  
PETER KEISLER, US ATTORNEY  
GENERAL AND THE UNITED STATES  
OF AMERICA, FEDERAL BUREAU OF  
INVESTIGATIONS, ROBERT MUELLER,  
DIRECTOR.

### Defendants.

Case No.

**Judge**

**Magistrate**

## Jury Demand

## NOTICE OF FILING

TO: Robert Mueller  
Federal Bureau of Investigation  
935 Pennsylvania Ave NW  
Washington, D.C. 20535-0001  
**Via Hand Delivery**

**Michael Chertoff**  
Office of General Counsel  
U.S. Dept. of Homeland Security  
Washington, D.C. 20528  
**Via First Class Mail**

**Peter Keisler**  
**US Attorney General**  
**950 Pennsylvania Avenue, NW**  
**Washington, D.C. 20530**  
**Via First Class Mail**


**RUTH DORCHOFF**  
District Director, USCIS  
101 West Congress Parkway,  
Chicago, Illinois 60605  
**Via Hand Delivery**

PLEASE TAKE NOTICE that on \_\_\_\_\_, Petitioner filed with the United States District Court for the Northern District of Illinois, their Petition for Writ of Mandamus, a copy of which is hereby delivered to your office on \_\_\_\_\_.

  
Omar A. Abuzir

## CERTIFICATE OF SERVICE

The undersigned attorney certifies that they caused this Notice to be served upon the above addressee by mail service by 5:00 p.m. on \_\_\_\_\_.

  
Omar A. Abuzir